IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 15TH FEBRUARY 2007 / 26TH MAGHA 1928

Bail Appl..No. 954 of 2007()

SC.265/1998 of SUB COURT,NEYYATTINKARA

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PETITIONER/ACCUSED NO.1

UDAYAKUMAR, AGED 35,
S/O.GOPINATHAN, KRISHNA VILASAM,
NOOLIYODE, VALAPPIL SALA, THIRUVANANTHAPURAM.

BY ADV. SMT.R.PADMAKUMARI

RESPONDENTS: STATE & COMPLAINANT

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1. STATE OF KERALA, REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA.

2. INDIRA, W/O.BHARGAVY,
REENA VILASAM, VAZHAPPARA, NANDIYODE,
PACHA P.O., NEDUMANGAD, THIRUVANANTHAPURAM.

BY PUBLIC PROSECUTOR SRI. P.N.SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 15/02/2007 ALONG WITH B.A. NO. 955/07, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Bail Application Nos. 954 & 955 of 2007

DATED: 15th February 2007

O R D E R

The common petitioner in C.R.223/CR/94 of C.B.C.I.D. for offences punishable under Sections 304 (B) and 306 read with Sec. 34 I.P.C. and in a private complaint arising out of the same occurrence in which the wife of the petitioner had committed suicide, seeks anticipatory bail. The private complaint was taken on file by the J.F.C.M., Kattakkada and numbered as C.P. 19/1996.

2. Consequent on the non-appearance of the petitioner and another accused, the case against them was re-filed as C.P. 63/1998. The police charge case upon which cognizance was taken was numbered as C.P. 16/1998. Consequent on the non-appearance of the petitioner the case was re-filed as C.P. 277/2000.

3. The case of the petitioner is that since he was abroad he did not receive summons from the committal court and while so, the rest of the accused have been tried and acquitted by the Assistant Sessions Court, Neyyattinkara in S.C. 115/98

and S.C. 628/2001, after a joint trial.

4. Admittedly non-bailable warrants of arrest are pending against the petitioner from the committal court. Anticipatory bail cannot be granted to nullify the process issued by a court of competent jurisdiction. There is no reason why the petitioner should not surrender before the committal court and seek regular bail after explaining the circumstances under which non-bailable warrants came to be issued against him. Accordingly, if the petitioner surrenders before the committal court and files applications for regular bail within two weeks from today, the same shall be considered and disposed of preferably on the same day on which they are filed after considering the explanation offered by the petitioner for his previous non-appearance and after considering his contention that the co-accused in the case have been acquitted after trial.

With the above observation these applications are disposed of .

V.RAMKUMAR, JUDGE.

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